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All things cremation.

The Honorable Lina Khan, Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Re: Funeral Rule ANPR, Project No. P034410

Thank you for providing an opportunity for the Cremation Association of North America (CANNA) to participate in the September 7 FTC Public Workshop: Shopping for Funeral Services. CANNA represents more than 3,500 funeral homes, cemeteries, crematories, and suppliers to the death care profession, and the workshop opened the way to discuss issues of concern and hear arguments from stakeholders across funeral service. These conversations also revealed gaps in understanding.

CANNA members know that funeral service goes beyond simply the purchase of goods and services. They recognize it as providing assistance during an emotionally charged life event. A fundamental misunderstanding between professional practitioners and reformer representatives arises through this reduction of funeral service to a mere transactional relationship. Funeral service can alleviate grief and create transformational experiences that memorialize the dead and support the living—regardless of the price tag.

For this comment period, CANNA will reiterate our previous arguments, but this time these remarks are set in the context of responses to questions posed during the Workshop panels.

Panels 1 and 2 (related to the pros and cons and practical considerations of mandatory online price disclosure)

CANNA continues to maintain that online price disclosure should not be required but should be seen as a business decision. FTC staff and consumer advocates have not sufficiently proven their case of harm to consumers from the current variance in the online availability of GPLs. The argument implies that families interpret the GPL and make decisions based on prices alone, but the support of a funeral professional goes beyond cost. The GPL was not designed as a standalone document and is already, and would remain, frustrating and confusing for consumers.

- That said, more than 54% of CANNA's members, who represent about a quarter of all funeral providers under FTC regulation, have chosen to post pricing online.
 - + CANNA members represent 3,000 firms under FTC regulation, estimated to be 25% of the funeral home market. Members represent a diverse mix of business models, including funeral homes, cremation societies, online providers, and independently- or family-owned businesses, as well as publicly consolidated ownership. Members are located in every state and in urban and rural areas. Their common denominator is a commitment to cremation best practices and the principle that cremation is preparation for memorialization.

- Posting pricing online is a successful business strategy for many businesses, and one-third to one-half of funeral providers are voluntarily posting pricing right now.
- Of the CANA members who post pricing online, the majority post their GPLs as PDFs on a secondary page accessible by search engines, a home page, a main navigation bar, or a footer link—all of which satisfy the concern about clear and conspicuous access. CANA members are businesses who seek customers, and therefore strive to make their websites accessible and legible.
- Many CANA members also list packages with email links and/or phone numbers available for those who wish to request detailed pricing or have questions answered. These packages include most commonly purchased items with good, better, best, simple, moderate, and premium ranges.
- Only a minority of members report selling goods and services online. Those who do list full pricing at the beginning of the shopping experience, offer it throughout the consumer's selection of items, and include it in the final statement of goods and services purchased at checkout.

CANA surveys reveal that 100% of members have websites. When asked about their analytics and visitor traffic they reported the following:

- Few people are visiting sites for pricing information—somewhere between 1/3 of one percent and 1% of website visitors click on or download pricing information. 99.9% + of website visitors are seeking obituary or service information. The majority of CANA members who post pricing find that placing pricing on a secondary, dedicated page is best for user experience.
- The majority of searches are via Google or Facebook. People are searching for decedent names or obituaries.
- Most funeral provider websites are template-based. If the FTC requires online price disclosure, then website providers will ensure their clients comply with FTC requirements while maintaining website standards and best practices.
- Requiring clear and conspicuous placement is sufficient. Specifying the particular details such as file type, font color, size or button placement, and functionality may result in the Funeral Rule requirements falling out of line when technology advances.

CANA members reported a wide range of costs related to building and maintaining a website that aligns with the purpose of the website. For funeral providers who primarily use their websites to post obituaries and service information, free template-based websites are appealing, with costs ranging from \$0-\$2,500 for set up, plus a similar amount to maintain the websites. For funeral providers who sell funeral goods and services online, providers tend to build unique websites or add functionality that supports ecommerce with an average cost of \$15,000.

Reflecting on points raised during the second Workshop Panel discussion, it was a positive development that panelists were in agreement that price disclosure requirements should NOT extend to social media because businesses are not able to exert control over the functionality of social media platforms. Google Business Page, Facebook, LinkedIn and YouTube are the social media platforms that are commonly used by CANA members. These platforms do not guarantee any kind of functionality and have a track record of changing user rules without notice. None of these platforms support posting PDF or online sales information without a website to point back to—and there is no reason to believe that will change in the future.

Panelists also agreed that mobile responsive websites are useful, as well as website features that support accessibility. The discussion around apps was confusing, but the main point is that apps currently point back to websites and are not stand-alone programs. Third-party apps that scrape pricing information or display it without the funeral provider's permission should not result in violations penalizing the funeral provider.

It is important to remember that the vast majority of funeral providers are micro-businesses and the fines related to funeral rule violations are devastating to them. Funeral providers want to comply, so keeping the Funeral Rule requirements and compliance standards clear and transparent is vital.

Consumer education is critical for online shopping as well as funeral goods and services. Many consumers do not understand how Google ranks businesses or that some businesses pay for higher rankings among search results. CANA asserts that pricing is a consideration when selecting a provider, but that reviews and word-of-mouth or recommendations should carry equal weight.

Panels 3, 4 and 5 (basic service fee, fee disclosures and new trends)

CANA maintains that a business's ability to discount the basic service fee is a benefit to customers and businesses.

Regarding the disclosure of third-party crematory fees on the GPL, it is CANA's position that all third-party fees that are outside of the control of the funeral provider are cash-advance items. Other cash-advance items include death certificates, flowers, celebrants and other fees charged by government entities or third parties outside of the control of the funeral provider. The risk of violating the Funeral Rule due to listing cash-advance items that may change unexpectedly is monetarily devastating. There are other solutions to promote fee disclosure.

There are approximately 3,451 crematories in the U.S. and approximately one-third are owned by funeral homes. The rest are on cemetery property or owned by third-party companies providing cremation services to multiple funeral providers. Five states require the third-party relationship by statute. Other cities and counties may prohibit the licensure and placement of any crematories, as is the case in D.C. Funeral homes may choose not to purchase or build their own crematory as a business strategy.

Funeral providers that work with third-party crematories may have a primary relationship with one crematory or may work with multiple companies in their service area. CANA teaches that best practice is to maintain a contract with those providers, inspect the facilities in person, and ensure the crematories have adequate insurance coverage. Even with those in place the fees are cash advance items and may be changed by the crematory owner at will. This variance in business models—and sometimes in marketing practices—is a prime concern and may cause confusion for consumers.

CANA's position is to address the definition of Direct Cremation rather than require disclosure or listing of cash advance items.

Rather than re-writing the Funeral Rule to reflect the current reality of cremation as the most popular form of disposition—followed by burial and then new forms of disposition—other changes to definitions and enforcement of the Funeral Rule can be achieved.

The addition of "direct cremation" as a required item to the GPL 40 years ago inadvertently made Direct Cremation a package in the consumer's mind. Now this package should be dismantled to be disposition neutral.

Direct Cremation currently includes at least five elements: 1) removal of the person from place of death, 2) secure, refrigerated storage, 3) administrative functions, including preparing the death certificates,

securing local permits, and insurance assignments, 4) the cremation itself, 5) permanent placement of the cremated remains or return to family. Any kind of funeral services or a viewing would be an optional 6th element.

A shift to “direct disposition” on the GPL could apply steps 1, 2, 3, and 5 to all current and future forms of disposition. Step 4 would remain specific to the disposition and any related containers or body preparation goods and services.

Currently Direct Cremation is a required element on the GPL. However, by replacing the word “cremation” with “disposition”—and defining the multiple forms of disposition in more detail—the Rule will be up-to-date and resilient into the future. The alternative would be to expand the current use of Direct Cremation to include new forms of disposition—and that is inaccurate because it means the Funeral Rule will continue to focus on casketed burial which is a less common form of disposition.

In the same way that burial-related prices exclude cemetery fees, because cemeteries aren’t under the FTC purview, third-party businesses that provide cremation, alkaline hydrolysis, natural organic reduction or future methods will charge fees that are included in cash-advance items or excluded entirely because those providers are not regulated by the FTC.

CANA shares the FTC’s concern that business models and marketing strategies that focus on base price and delay disclosure of additional fees vs. businesses that market the full price of the direct cremation elements can be misleading to customers. Strengthening the definitions of each disposition type will provide important guidance to protect customers without expressing a preference for one business model or marketing strategy over another.